

## **CHAPTER 62.1-04 CONCEALED WEAPONS**

### **62.1-04-01. Definition of concealed.**

A firearm or dangerous weapon is concealed if it is carried in such a manner as to not be discernible by the ordinary observation of a passerby. There is no requirement that there be absolute invisibility of the firearm or dangerous weapon, merely that it not be ordinarily discernible. A firearm or dangerous weapon is considered concealed if it is not secured, and is worn under clothing or carried in a bundle that is held or carried by the individual, or transported in a vehicle under the individual's control or direction and available to the individual, including beneath the seat or in a glove compartment. A firearm or dangerous weapon is not considered concealed if it is:

1. Carried in a belt holster which is wholly or substantially visible or carried in a case designed for carrying a firearm or dangerous weapon and which is wholly or substantially visible;
2. Locked in a closed trunk or luggage compartment of a motor vehicle;
3. Carried in the field while lawfully engaged in hunting, trapping, or target shooting, whether visible or not; or
4. Carried by any person permitted by law to possess a handgun unloaded and in a secure wrapper from the place of purchase to that person's home or place of business, or to a place of repair, or back from those locations.
5. A bow and arrow, rifle, shotgun, unloaded handgun, or a weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon commonly referred to as a BB gun, air rifle, or CO<sub>2</sub> gun, while carried in a motor vehicle.

### **62.1-04-02. Carrying concealed firearms or dangerous weapons.**

1. An individual, other than a law enforcement officer, may not carry a firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this chapter.
2. An individual who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under this chapter and who has possessed for at least one year a valid driver's license or nondriver identification card issued by the department of transportation may carry a firearm concealed under this chapter.

### **62.1-04-03. License to carry a firearm or dangerous weapon concealed - Class 1 firearm license and class 2 firearm and dangerous weapon license.**

1. The director of the bureau of criminal investigation shall issue a license to carry a firearm or dangerous weapon concealed upon review of an application submitted to the director if the following criteria are met:
  - a. The applicant is at least twenty-one years of age for a class 1 firearm license or at least eighteen years of age for a class 2 firearm and dangerous weapon license;
  - b. The applicant can demonstrate that the applicant is a resident of this state by providing a copy of a valid driver's license or state-issued identification card from this state that establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address in this state or the applicant possesses a valid driver's license from the applicant's state of residence that establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address and a valid concealed weapons license from the applicant's state of residence, which state has reciprocity with this state under section 62.1-04-03.1;
  - c. The applicant is not an individual specified in section 62.1-02-01 and for a class 1 firearm license the applicant:
    - (1) Has not been convicted of a felony;

- (2) Has not been convicted of a crime of violence;
  - (3) Has not been convicted of an offense involving the use of alcohol within ten years prior to the date of application;
  - (4) Has not been convicted of a misdemeanor offense involving the unlawful use of narcotics or other controlled substances within ten years prior to the date of application;
  - (5) Has not been convicted of an offense involving moral turpitude;
  - (6) Has not been convicted of an offense involving domestic violence;
  - (7) Has not been adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and
  - (8) Is qualified to purchase and possess a firearm under federal law;
- d. The applicant has successfully completed the testing procedure conducted by a certified test administrator. The person conducting the testing may assess a charge of up to fifty dollars for conducting this testing. The attorney general may certify a test administrator based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation;
  - e. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed the criminal history records check conducted by the bureau of criminal investigation and the federal bureau of investigation. The applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records. The bureau may deny approval for a license if the bureau has reasonable cause to believe that the applicant or licenseholder has been or is a danger to self or others as demonstrated by evidence, including past pattern of behavior involving unlawful violence or threats of unlawful violence; past participation in incidents involving unlawful violence or threats of unlawful violence; or conviction of a weapons offense. In determining whether the applicant or licenseholder has been or is a danger to self or others, the bureau may inspect expunged records of arrests and convictions of adults and juvenile court records; and
  - f. The applicant is not prohibited under federal law from owning, possessing, or having a firearm under that individual's control.
2. The attorney general shall offer class 1 firearm and class 2 firearm and dangerous weapon licenses to carry a firearm or dangerous weapon concealed under the following requirements:
- a. An applicant for a class 1 firearm license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm to be concealed may be satisfied by one of the following:
    - (1) Certification of familiarity with a firearm by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor;
    - (2) Evidence of equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service;
    - (3) Possession of a license from another state to carry a firearm, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or
    - (4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm.
  - b. An applicant for a class 2 firearm and dangerous weapon license is required to successfully complete the open book test offered for the class 1 firearm license.

- c. A North Dakota resident who has a valid class 1 firearm license also may carry a class 2 dangerous weapon without any further testing required. Class 1 and class 2 permits are equally valid in this state.
  - d. Additional testing is not required to renew a class 2 firearm and dangerous weapon license. A class 1 firearm license may be renewed upon successful completion of the class 1 firearm requirements within thirty days before submission of the application for renewal.
  - e. An individual who has a valid class 2 firearm license may apply to upgrade to a class 1 firearm license within five years from the date the class 2 firearm license was issued and upon successful completion of the requirements under this chapter. An individual who has a valid class 1 firearm license may request to convert the license to a class 2 firearm license before the expiration of the class 1 firearm license.
3. The director of the bureau of criminal investigation shall send by mail to a holder of a license a notice of the procedures for renewal of the license issued under this section. The director shall give the notice at least one hundred fifty days but not more than one hundred eighty days before the expiration of the license.
4. The bureau of criminal investigation is required to process the application and make a determination within sixty days of receipt of the properly completed application.
5. The fee for a concealed weapons license must be credited to the attorney general's operating fund. All fees must be paid before the license application may be processed by the director of the bureau of criminal investigation. The attorney general shall list the fees associated with the license, including the costs of the fingerprint-based federal criminal history record check, in the attorney general's administrative rules.
6. The director of the bureau of criminal investigation shall prescribe the form of the application and license, which must include the name, address, description, a photograph, and the signature of the individual. The application form must require sufficient information to properly conduct a criminal history record check and be accompanied by:
  - a. A photocopy of a valid driver's license or identification card issued by this state which establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address in this state or a valid state-issued driver's license from the applicant's state of residence which establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address and a valid concealed weapons license from the applicant's state of residence, which has reciprocity with this state under section 62.1-04-03.1; and
  - b. Two sets of classifiable fingerprints. The two sets of classifiable fingerprints are not required for a renewal of a concealed weapons license. The license is valid for five years. The original license must be delivered to the licensee and an electronic copy must be preserved for six years by the director. Access to license information must be available to law enforcement through electronic means for official law enforcement purposes. The applicant or licensee shall notify the director of the bureau of criminal investigation of any change of address or any other material fact which would affect the restrictions on or the need for the license.
7. The director of the bureau of criminal investigation may deny an application or revoke or cancel a license after it has been granted for any material misstatement by an applicant in an application for the license or any violation of this title. The director of the bureau of criminal investigation shall disclose to the applicant the specific reason for denial or revocation of the license.
8. The applicant may appeal a denial or revocation of this license to the district court of Burleigh County.
9. Information collected from an applicant under this section is confidential information. However, the information may be disclosed:

- a. To a governmental agency or court for a law enforcement purpose, including the investigation, prosecution, or punishment of a violation of law.
  - b. To a court to aid in a decision concerning sentence, probation, or release pending trial or appeal.
  - c. Pursuant to a court order or a judicial, legislative, or administrative agency subpoena issued in this state.
10. The attorney general may adopt any rules necessary to implement this title.

**62.1-04-03.1. Reciprocity.**

A person who has a valid license issued by another state to carry a concealed firearm or dangerous weapon in that state and whose state grants to residents of this state the right to carry a concealed firearm or dangerous weapon without requiring a separate license to carry a concealed firearm or dangerous weapon issued by that state may carry, subject to the provisions of this state's law, a concealed firearm or dangerous weapon in this state, and the other state's license is valid in this state.

**62.1-04-04. Producing license on demand.**

1. Every individual while carrying a concealed firearm or dangerous weapon, for which a license to carry concealed is required, shall have on one's person the license issued by this or another state and shall give it to any active law enforcement officer for an inspection upon demand by the officer. The failure of any individual to give the license to the officer is prima facie evidence the individual is illegally carrying a firearm or dangerous weapon concealed.
2. Every individual carrying a concealed firearm under the authority granted in subsection 2 of section 62.1-04-02 shall inform a law enforcement officer of the individual's possession of a concealed weapon upon the initiation of a traffic stop or any other in-person contact initiated by a law enforcement officer.
3. Every individual carrying a concealed firearm under the authority granted in subsection 2 of section 62.1-04-02 must have on one's person a valid driver's license or nondriver identification card issued by the department of transportation or a digital image of one's valid driver's license or nondriver identification card on a mobile device and shall provide the license or card to any law enforcement officer for inspection upon demand by the officer.

**62.1-04-05. Penalty.**

Any person who violates this chapter is guilty of a class A misdemeanor.